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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,101	08/02/2005	Konrad Tetenborg	P70652US0	2274

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EXAMINER
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DESAI, HEMANT

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/544,101

Applicant(s)

TETENBORG ET AL.

Examiner

Hemant M. Desai

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G..213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/18/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: There are no heading, for example: "SUMMARY OF THE INVENTION", "BRIEF DESCRIPTION OF THE INVENTION", "DEATAILED DESCRIPTION OF THE INVENTION", etc.

The phrase "pursuant to the preamble of claim 1", page 3, line 7, should be deleted.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claim 8 recites the limitation "a film tube" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "a film tube" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenborg et al. (4873815) in view of WIPO (WO 02/057150).

Tetenborg et al. disclose process for manufacturing a bag from a polymer film material (11, fig. 2) wherein the lower end of the bag is sealed and the bag comprises of four outer walls (see figs. 1-2) that are connected by four seams, characterized in that the material required for forming the bags is fed in the form of a film tube that is wound up on a roll (1, fig. 1) to the unwinding station of a bottom forming device (2, fig. 1) that separates the unwound film tube into film tube segments and seals at least one end of the bag (1, fig. 1), which meets all the claimed limitations.

Tetenborg et al., as mentioned above, disclose the bag with four walls except for the walls are connected by four seams. WIPO ('150) discloses that it is known in the bag making art to provide a film tube to produce a bag (10, fig. 4A-4B) made of four walls (14, 16, 22, 32, figs. 4A-4B) that are connected by four seams. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bag of Tetenborg et al. with the bag of WIPO ('150) in order to provide a more versatile and robust bag (see page 2, lines 10-11; page 3, line 15).

Regarding claim 2, Tetenborg et al. disclose that the bag (11) comprises side gussets (see col. 4, lines 7-8).

Regarding claim 3, Tetenborg et al. disclose that the bottom of the bag is formed using transverse sealing (see fig. 2).

Regarding claim 4, Tetenborg et al. disclose that the bottom of the bag is formed exclusively by a squeezing process and a transverse sealing process (see fig. 2).

Regarding claim 5, Tetenborg et al. disclose that the bottom formation of the bag is followed by a filling process of the bags.

Regarding claim 6, Tetenborg et al. disclose that the top end of the bag is also sealed using transverse sealing (15, 16, fig. 2).

Regarding claim 7, Tetenborg et al. disclose that the bag is formed and filled partly in a form, fill and seal machine (see figs. 1-2).

Regarding claims 9-10, the modified process of manufacturing the bag of Tetenborg et al. teach that the film tube to produce a bag (10) made of four walls that are fed parallel (see fig. 4A) and defines the longitudinal axis of the formed film tube and join by heat weld with each other.

6. Claims 8-10, alternatively, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetenborg et al. (4873815).

Tetenborg et al. disclose the tube with four walls and bottom seal (see 1, fig. 1). Tetenborg et al. do not disclose expressly four seams and made form four webs that are fed parallel to one another.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to form the tube form four webs that are fed parallel to one another and with four seams because Applicant has not disclosed that by forming the tube form four webs that are fed parallel to one another and with four seams provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the tube of Totenborg et al. or the tube claimed tube of claims 8-10 because both the tubes perform equally well in the form, fill and seal machine.

Therefore, It would have been an obvious matter of design choice to modify the tube of Totenborg et al. to obtain the invention as specified in claims 8-10.

7. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wessling et al. (2002/0168120) in view of British Patent (1057264).

Wessling et al. disclose a tubular film (1, fig. 1) formed out of a film tube with four side walls (4, 5, 7, figs. 1, 7) that are joined to one another using four seams (15, 16, fig. 7).

Wessling et al., as mentioned above, disclose all the claimed limitations except for the tubular film is in the form of roll. However, British Patent ('264) discloses that it is known to provide tubular film in the form of roll (see fig. 1) for convenient storage, shipment and subsequent use (see page 2, lines 101-105). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made

Art Unit: 3721

to provide the tubular film of Wessling et al. in the form of roll as taught by British Patent ('264) for convenient storage, shipment and subsequent use.

Regarding claim 12, Wessling et al. disclose that the two (7, fig. 2) of the four side walls (4, 5 and 7) have side gussets (13, 14, fig. 2).

Regarding claim 13, Wessling et al. disclose that the front sides (5, 4) of the side-gusseted film tube lie over one another.

Regarding claim 14, Wessling et al. disclose that the side gussets (13, 14) are staved toward the direction of the tube.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 6:30 AM-5:00 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Hemant M. Desai.*

Hemant M Desai  
Examiner  
Art Unit 3721

HMD